

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

WILLIAM CECIL THORNTON, <div style="text-align: right;">Petitioner,</div>	v.	MATTHEW CATE, <div style="text-align: right;">Respondents.</div>
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Civil No. 11-2388 JLS (POR)

ORDER:

**(1) DENYING MOTION TO PROCEED
IN FORMA PAUPERIS; and**
**(2) DISMISSING CASE WITHOUT
PREJUDICE**

Petitioner, a state prisoner proceeding pro se, has filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254, together with a motion to proceed in forma pauperis.

MOTION TO PROCEED IN FORMA PAUPERIS

The request to proceed in forma pauperis is **DENIED** because Petitioner has not provided the Court with sufficient information to determine Petitioner's financial status. A request to proceed in forma pauperis made by a state prisoner must include a certificate from the warden or other appropriate officer showing the amount of money or securities Petitioner has on account in the institution. Rule 3(a)(2), 28 U.S.C. foll. § 2254; Local Rule 3.2. Petitioner has failed to provide the Court with the required Prison Certificate.

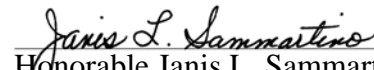
28 U.S.C. § 2241 NOT THE PROPER VEHICLE

Although Petitioner filed this action pursuant to 28 U.S.C. § 2241, he is a state prisoner in state custody. Therefore, he may not proceed under section 2241, but may only proceed with a habeas action

1 in federal court under 28 U.S.C. § 2254. *White v. Lambert*, 370 F.3d 1002, 1006-07 (9th Cir. 2004)
2 (holding that section 2254 is the proper jurisdictional basis for a habeas petition brought by an
3 individual “in custody pursuant to a state court judgment”). Accordingly, the petition is **DISMISSED**
4 without prejudice.

5 **IT IS SO ORDERED.**

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7 DATED: October 20, 2011

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9 Honorable Janis L. Sammartino
10 United States District Judge
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